

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 6911

Petition of EMDC, LLC, d/b/a East Haven)
Windfarm, for a certificate of public good,)
pursuant to 30 V.S.A. Section 231 and 248,)
authorizing it to construct and operate a 6)
MW wind electric generation facility, and)
associated transmission and interconnection)
facilities, in East Haven, Vermont)

PREFILED TESTIMONY OF
ROBERT IDE

ON BEHALF OF THE
VERMONT DEPARTMENT OF PUBLIC SERVICE

December 15, 2004

Summary: The purpose of Mr. Ide's testimony is to present the Department's overall recommendations with respect to the petitioner's request for Certificates of Public Good ("CPG"s) under 30 V.S.A. §§ 231 and 248, including specific recommendations on a number of criteria found in 30 V.S.A. § 248(b). In places, he will be incorporating or relying on the work and testimony of other Department witnesses

Prefiled Testimony
of
Robert Ide

1 Q. Please state your name and position.

2 A. My name is Robert Ide. I am employed by the Vermont Department of Public
3 Service (“DPS” or “Department”) as Director for Energy Efficiency.

4 Q. Briefly, can you describe your job duties as the Director for Energy Efficiency?

5 A. Yes. I am responsible for policy development and public advocacy on all matters
6 before the Public Service Board that concern energy efficiency and renewable energy
7 sources.

8 Q. Do your job responsibilities also entail oversight of the location of commercial wind
9 generation facilities?

10 A. Yes. I have served as the Department’s representative to the Agency of Natural
11 Resources policy development process concerning the siting of wind turbines on state
12 land; assigned staff to the Governor’s Commission on Wind Energy Regulatory Policy;
13 and I have been assigned the responsibility of overseeing the Department’s involvement
14 in section 248 activities as they relate to wind generators.

15 Q. Please state your background and experience relative to public policy development and
16 community involvement.

17 A. Before joining the Department in March of 2003, I served 10 years as a member
18 of the Vermont State Senate representing the Caledonia District.

19 Q. Have you testified before this Board previously?

20 A. No.

1 Q. What is the purpose of your testimony?

2 A. I will present the Department's overall recommendations with respect to the
3 petitioner's¹ request for Certificates of Public Good ("CPG"s) under 30 V.S.A. §§ 231
4 and 248, including specific recommendations on a number of criteria found in 30 V.S.A.
5 § 248(b). In places, I will be incorporating or relying on the work and testimony of two
6 additional Department witnesses, David Lamont and Mark Kane. I should note that the
7 Department's recommendations in this proceeding should be considered preliminary only
8 at this time. As the Board is aware, to date only the petitioner has filed testimony in this
9 proceeding. All other parties will be filing their testimony concurrent with the
10 Department on December 15, 2004. Accordingly, the Department believes that it should
11 be allowed an opportunity to review the other parties' filings before it makes a final
12 recommendation in this proceeding.

13 It should also be clear from the outset, that the Department's recommendations in
14 this proceeding apply only to the project described in the applicant's petition and
15 associated testimony; that is, a project consisting of a total of four 1.5 MW wind turbines
16 and associated infrastructure on East Mountain in East Haven, Vermont. The
17 Department's recommendations do not apply to any possible future expansion of the
18 currently proposed project, nor to any additional projects that may be proposed for the
19 surrounding region.

20 **1. Certificate of Public Good: 30 V.S.A. § 231(a).**

21 Q. Please begin with the petitioner's request for a Certificate of Public Good under 30
22 V.S.A. § 231(a). Has the petitioner specifically requested that the Board issue it a CPG
23 under § 231?

24 A. Yes, originally it did. However, it is my understanding that the petitioner is filing
25 an amendment to its petition along with supplemental supporting testimony addressing

¹ EMDC, LLC, d/b/a East Haven Windfarm. Herein referred to variously as East Haven, applicant or petitioner.

1 ths issue in further detail.² Apparently, subsequent to the time the original petition was
2 filed in this matter, East Haven received a determination from the Federal Energy
3 Regulatory Commission that the proposed project is a qualifying facility (“QF”) under the
4 Public Utilities Regulatory Policies Act (“PURPA”). Based on its QF status, the
5 petitioner apparently asserts that it is entitled to proceed under Public Service Board Rule
6 4.100 and therefore qualifies for exemption from regulation under most sections of Title
7 30; section 231 being one of these sections. The available exemptions for QFs under
8 Title 30 are set forth in Public Service Board Rule 4.109. In this instance, it appears that
9 the proposed project would be exempt from all regulation under Title 30 except under 30
10 V.S.A. §§ 202, 209(a)(3), 209(a)(8), 214, and 248. Accordingly, if the project falls
11 within the scope of Rule 4.100, it is not required to obtain the section 231 CPG as it had
12 originally requested.

13 Q. Does the project qualify for treatment under Rule 4.100?

14 A. Based on a cursory review of the amended petition and supplemental testimony,
15 my preliminary conclusion is that it does qualify. However, given the late nature of the
16 amendment and supplemental testimony, the Department believes that it should be
17 allowed an opportunity to conduct discovery on the amended petition and supplemental
18 testimony, and if based on that discovery, the DPS comes to a different conclusion
19 regarding the proposed project’s status under Rule 4.100, it should be allowed to file its
20 own supplemental testimony on this topic.

21 **2. Certificate of Public Good: 30 V.S.A. § 248**

22 Q. Which § 248 criteria will the Department be submitting recommendations on?

² The DPS was provided copies of the intended filings electronically late afternoon December 14, 2004. In the event East Haven files an amended petition and/or supplemental testimony that differs in any material way from those it provided the DPS electronically, the DPS reserves the right to amend this portion of its testimony to address such differences.

1 A. The Department will be submitting recommendations on the following criteria
2 under 30 V.S.A. § 248(b):

3 (1) whether the proposed project will unduly interfere with the orderly
4 development of the region with due consideration having been given to the
5 recommendations of the municipal and regional planning commissions, the
6 recommendations of the municipal legislative bodies, and the land conservation measures
7 contained in the plan of any affected municipality;

8 (2) whether the proposed project is required to meet the need for present and
9 future demand for service which could not otherwise be provided in a more cost effective
10 manner through energy conservation programs and measures and energy-efficiency and
11 load management measures, including but not limited to those developed pursuant to the
12 provisions of sections 209(d), 218c, and 218(b) of Title 30;

13 (3) whether the proposed project will adversely affect system stability and
14 reliability;

15 (4) whether the proposed project will result in an economic benefit to the state
16 and its residents;

17 (5) whether the proposed project will have an undue adverse effect on
18 aesthetics, historic sites, air and water purity, the natural environment and the public
19 health and safety, with due consideration having been given to the criteria specified in 10
20 V.S.A. § 1424a(d) and § 6086(a)(1) through (8) and (9)(K);

21 (6) whether the proposed project is consistent with the principles for resource
22 selection expressed in the petitioner's approved least cost integrated plan;

23 (7) whether the proposed project is in compliance with the electric energy plan
24 approved by the Department under section 202 of Title 30, or that there exists good cause
25 to permit the proposed action; and,

26 (10) whether the proposed project can be served economically by existing or
27 planned transmission facilities without undue adverse effect on Vermont utilities or
28 customers.

1 30 V.S.A. § 248(b)(1)

2 Q. Do you believe the project will have an undue adverse impact on the orderly development
3 of the region.

4 A. No, I do not. First, the project will enhance power reliability in the region by
5 adding a local generation source, which should assist, rather than interfere, with orderly
6 development in the region. Additionally, the project should have very little impact on the
7 region's infrastructure, such as roads, and will impose little demand for services on either
8 a local or regional level. With respect to local ordinances and municipal authorities, the
9 town of East Haven has not enacted zoning laws so there is no local community standard
10 that addresses or otherwise prohibits the proposed windfarm. Further, it appears that the
11 project enjoys significant support by the people of East Haven based on a questionnaire
12 distributed to town residents.³ Lastly, according to the petitioner, the East Haven
13 Selectboard voted unanimously in support of the windfarm following receipt of the
14 questionnaire results.⁴

15 Q. Does the project conflict with any provisions in the regional plan?

16 A. No, I do not believe it does. The current regional plan was originally adopted by
17 the Northeastern Vermont Development Association in 1995, and was subsequently
18 readopted in September 2003. The plan presents an overall vision of preservation of the
19 unique character of the Northeast Kingdom through maintenance of a way of life built
20 around village centers, surrounded by open lands of working farms and forest land.
21 However, at the same time, the plan recognizes that development pressures are growing
22 and that change is inevitable. The plan, therefore, sets forth general guidelines and
23 recommendations for appropriately directing and assessing development proposals to help
24 maintain the region's environment and rural character as well as the traditions of the

³ See Rubin pf. at 19-20. According to the petitioner, approximately 50% of the survey recipients responded with some 86% of those responding supporting the proposed project.

⁴ *Id.*

1 Northeast Kingdom. The plan has an overriding vision that the area will change very
2 slightly and very slowly.⁵

3 Q. How is the plan designed to be implemented?

4 A. While the plan sets out guidelines and criteria for assessing development
5 proposals in the region, it does not contain any explicit prohibitions or requirements and
6 instead relies on local decision-making as the primary channel of review for
7 development.⁶ With respect to the proposed project and the local decision-making
8 process, the applicant has testified that a questionnaire was mailed to all East Haven
9 property owners. The response was in favor of the project. Additionally, the Selectboard
10 in East Haven unanimously passed a resolution voicing support for the proposed project.

11 Q. How is the plan structured?

12 A. The plan acknowledges a very rural region, and within that region it identifies five
13 different categories of land use or development which it refers to as districts. These five
14 districts are: Principal Activity Centers; Secondary Activity Centers; Recreational
15 Activity Centers; Village Centers; and Agricultural and Forestry Areas. The plan
16 establishes these districts to promote a desired pattern of development which concentrates
17 activities into those areas where similar activities already exist, and sets forth criteria for
18 identifying land and guiding development within each district. However, the plan states
19 that the “districts are general in nature” and recognizes the need for exceptions “as
20 determined by the municipalities for locating certain facilities outside the areas
21 designated most appropriate for a particular land use” while recognizing the need to
22 protect the public health and welfare.⁷

⁵ See Exh. EHWF-MR-17 at 5.

⁶ *Id.* at 3.

⁷ *Id.* at 31.

1 Q. Which district does the proposed windfarm site fall into?

2 A. I believe that the proposed windfarm is located in an Agricultural and Forestry
3 Area under the plan. Basically, any land that does not fall into one of the other four
4 districts is considered to lie within an Agricultural and Forestry Area.

5 Q. What plan criteria apply to lands categorized as an Agricultural and Forestry Area?

6 A. The plan recognizes that agricultural and forestry activities are the major land uses
7 in the Northeast Kingdom and states that these areas should receive “very little
8 commercial or industrial development unless it occurs in an established industrial park or
9 in an area specifically designated in the local zoning bylaw.”⁸

10 Q. Doesn’t this language conflict with the proposed windfarm?

11 A. No, I do not believe it does. I believe it requires that such a project be given due
12 consideration prior to approval, but it does not prohibit it. I believe this for a number of
13 reasons. First, the language does not expressly exclude the possibility of a commercial
14 project such as the proposed windfarm; in fact earlier language recognizes the need for
15 exceptions to the guidelines established for each district and emphasizes that this
16 decision-making process should occur on the local level. As discussed above, the
17 residents and elected officials of East Haven appear to be in favor of the proposal.

18 Second, the statement clearly permits commercial development within the district
19 in an established industrial park. While I do not think it is accurate to refer to the summit
20 of East Mountain as an established industrial park, it is certainly a site that previously
21 experienced heavy use by the Department of Defense, and while it is no longer in active
22 use, it certainly bears the scars of the prior activity. In this regard, I believe that allowing
23 the windfarm is consistent with the intent and spirit of the plan.

24 Third, the statement also clearly permits commercial and industrial development
25 within the district when it is allowed by a local zoning regulation. As discussed earlier,

⁸ *Id.* at 34.

1 East Haven has no zoning that would prohibit the project, and the residents and officials
2 of the town have spoken out in favor of the project. Again, I believe that allowing the
3 windfarm is consistent with the intent of the plan.

4 Fourth, I do not believe that allowing the windfarm will interfere in any
5 significant or meaningful way with the principle activities that exist within the
6 Agricultural and Forestry Areas in the plan. The principle activities, being agriculture
7 and forestry, should be able to proceed unimpeded by the proposed project.

8 Q. Is there any other language in the plan that is relevant to the proposed project?

9 A. Yes, I believe there is. The plan recognizes that, while development should be
10 encouraged in identified activity centers, some development will occur in rural lands if
11 permitted by local zoning. Such development should take place in ways that:

- 12 1. minimizes its impact on the district's rural character;
- 13 2. does not strain municipal services;
- 14 3. is built along existing roadways;
- 15 4. discourages strip development; and,
- 16 5. requires proper construction of driveways to avoid negative visual or
17 traffic impacts.

18 I believe that a fair assessment of the proposed windfarm yields the conclusion
19 that it meets these criteria. As discussed by the Department's witness Mark Kane, the
20 selection of the remote site, it's previously impacted nature, and the existing access road,
21 all minimize the incremental impact from the project. The project places little, if any
22 burden on municipal services and is not situated such that the existing road criteria comes
23 into play, though as noted above, there is already an access road to the summit of East
24 Mountain. Criteria four and five simply don't seem to apply.

25 Q. Are there any other relevant areas of the plan?

26 A. Yes. The plan sets out some basic development considerations, primarily to be
27 used by municipal authorities as a checklist or basis for consideration of proposed

1 projects. I believe the most relevant of these considerations are number 3, Character of
2 the Area Affected; and number 13, Higher Elevation.

3 Character of the Area Affected. This consideration states that a project should not
4 significantly alter or adversely change the character of the affected area as it exists or as it
5 is envisioned to exist in local zoning bylaws. Visual impacts should be designed in
6 keeping with existing uses in the affected area, and consideration should be given to the
7 project's impacts on aesthetics, open spaces, and the scenic and historic integrity of the
8 area.⁹ I do not think a windfarm can be constructed on a ridgeline in rural Vermont
9 without having a visual impact on the surrounding area. By their very nature, they are
10 highly unlikely to "blend in" with the surrounding scenery. However, that said, as
11 discussed above and in Mr. Kane's testimony, the selection of this particular previously
12 impacted site along with the details of the project (e.g. four turbines only, tower color
13 selection, lights that minimize downward flash etc.) tend to minimize the overall potential
14 impact of such a project. In fact, the Board came to a similar conclusion in approving the
15 Searsburg project in assessing the regional plan covering development in the Windham
16 region.¹⁰

17 Higher Elevation. This consideration states that areas with elevations above 2,500
18 feet should receive little or no development.¹¹ The summit of East Mountain is above
19 2,500 feet and therefore the proposed project falls under this consideration. As an initial
20 matter, the consideration does not prohibit development above 2,500 feet, but states that
21 these areas should receive little or no development. Again, I believe that the previously
22 impacted nature of this site and the details of the proposed project bring it within the
23 intent of the plan, which recognizes some development at higher elevations and outside
24 the areas normally indicated by the plan. Like the previous consideration regarding the

⁹ *Id.* at 35.

¹⁰ *Petition of Green Mountain Power Company for a certificate of public good for authority to construct a 6 MW wind generation facility and associated line extensions in Searsburg, Vermont, Docket 5823, Order of 5/16/96 at 11, finding 39.*

¹¹ *See* Exh. EHWF-MR-17 at 39.

1 character of the area, the Board also came to a similar conclusion in approving the higher
2 elevation Searsburg project.¹²

3 Q. Do you have any final comments on the regional plan?

4 A. Yes. First, I believe that the proposed project would be classified as having a
5 “substantial regional impact” under the plan because it is a new generation facility located
6 outside an Activity or Village Center.¹³ Under the plan, such projects should be designed
7 to create the maximum benefit and minimum detriment to the local community and the
8 region.¹⁴ For all the reasons set forth in the testimony of the Department’s witnesses (e.g.
9 unique nature of the site, distant generally accessible view points, below market power
10 contract for LED etc.) I believe the proposed project achieves these goals.

11 Second, I believe it is important to note that the Northeastern Vermont
12 Development Association (“NVDA”) was given notice of this project in advance of the
13 applicant’s filing at the Board as required by statute.¹⁵ To my knowledge, NVDA has not
14 offered a position on the proposed project, either for or against. I think it is fair to
15 assume, however, that if the drafters of the regional plan believed that the proposed
16 project was entirely out of step with the plan, they would have made that belief known at
17 some point during the past year.

18 Lastly, I note that the plan acknowledges the issue of the potential for cumulative
19 impacts of multiple development projects. While an individual project may be deemed
20 acceptable, failure to pay attention to possible cumulative impacts could result in a loss of
21 the unique character of the Northeast Kingdom.¹⁶ This point is consistent with my

¹² Docket 5823, Order of 5/16/96 at 11, finding 38.

¹³ See Exh. EHWF-MR-17 at 39-40, 47.

¹⁴ *Id.* at 39.

¹⁵ See letters to Susan M. Hudson, Clerk, PSB, from John B. Kassel, counsel for East Haven, dated 11/17/03 and 11/18/03.

¹⁶ See Exh. EHWF-MR-17 at 5.

1 recommendation later in this testimony that the Board, assuming it issues a CPG in this
2 proceeding, should do so in a manner that allows it to consider the cumulative impact of
3 any future projects if it deems it to be relevant and appropriate.

4 30 V.S.A. § 248(b)(2)

5 Q. Does the proposed project meet the need for present and future demand for service which
6 could not otherwise be provided in a more cost effective manner through energy
7 conservation programs and measures and energy-efficiency and load management
8 measures?

9 A. The DPS believes the proposed project meets this criteria. I respectfully refer the
10 Board to the testimony of Department witness David Lamont for a full explanation of the
11 DPS' position on this criteria.

12 30 V.S.A. § 248(b)(3)

13 Q. Will the project have an adverse effect on system stability and reliability?

14 A. That question will ultimately be addressed by the Department's electrical
15 engineer, Steve Litkovitz. However, as the Board is aware, the Department and the
16 petitioner have executed a stipulation that, if approved, will allow for a deferral of any
17 finding under this criteria until the anticipated follow-on proceeding in which
18 Lyndonville Electric Department ("LED") will seek a CPG to upgrade a portion of its
19 transmission line running from the bottom of Radar Road to its substation at Burke. It is
20 my understanding that an engineering study necessary to support a favorable finding on
21 this criteria is underway but has not yet reached its conclusion. Since the transmission
22 line upgrade is necessary for the windfarm to interconnect and operate, the Department
23 believes the requisite finding can be deferred until the LED proceeding without any
24 prejudice to existing parties. By its terms, the proposed stipulation limits any site
25 preparation work that may be undertaken by East Haven prior to receiving a CPG for both
26 projects, and makes clear that the petitioner is proceeding at its own risk and expense by

1 asking to have this finding deferred.¹⁷

2 30 V.S.A. § 248(b)(4)

3 Q. Will the proposed project provide an economic benefit to the state?

4 A. Yes, I believe it will. While that question will be addressed in more detail by Mr.
5 Lamont, a few observations are in order. In addition to the economic benefits that LED
6 should realize from the below-market contract it intends to execute with East Haven,
7 there should be other benefits realized from the construction and operation of the
8 proposed windfarm. Based on the testimony of Mr. Rubin, up to 24 workers will be
9 employed during the construction phase of the project. Assuming that Mr. Rubin is
10 correct that many of these workers will likely come from outside the area, their presence
11 should generate economic activity in and around East Haven. Once constructed, the
12 number of employees associated with the operation of the project will be small and is
13 estimated at the equivalent of three full time employees.¹⁸ Lastly, it is expected that the
14 project will result in some increase in property tax revenues.¹⁹ The Department is not
15 suggesting that these economic benefits will be substantial on a state-wide basis,
16 however, overall we believe that the proposed project will result in a net economic
17 benefit to the state.

18 30 V.S.A. § 248(b)(5)

19 Q. Will the project have an undue adverse effect on aesthetics, historic sites, air and water
20 purity, the natural environment and the public health and safety, with due consideration
21 being given to the criteria specified in 10 V.S.A. § 1424a(d) and § 6086(a)(1) through (8)
22 and (9)(K) ?

23 A. Before responding, I should clarify that under this criteria, the Department will

¹⁷ The proposed stipulation also applies to criteria (10).

¹⁸ See Rubin pf. at 31.

¹⁹ *Id.* at 30.

1 address questions of the project's impacts on aesthetics, historic sites and public health
2 and safety.²⁰ Mr. Kane responds at length to the question of aesthetics and concludes that
3 while the project will have an adverse impact on the surrounding visual environment, that
4 impact will not be undue. Mr. Kane also recommends on behalf of the Department, that
5 the Board reject the proposal set forth in the testimony of Peter Marshall Owens on behalf
6 of East Haven that the Board abandon the traditional "Quechee" analysis with respect to a
7 determination of the aesthetic impacts of commercial windfarms on their surrounding
8 landscape.

9 With respect to the proposed project's impacts on historic sites, the site has been
10 identified by the State Historic Preservation Office ("SHPO") as eligible for inclusion on
11 the National Register of Historic Places at the national and state levels due to its
12 exceptional importance as an historic example from the Cold War era. Based on details
13 provided to SHPO by the applicant, SHPO has concluded that the proposed project will
14 have an adverse effect on the existing historic site. However, SHPO has further
15 concluded that conditioned upon certain mitigation measures, the adverse impact will not
16 be undue. Those measures include:

17 1. Prior to demolition or relocation, the contributing historic properties and
18 associated landscape features must be recorded in accordance with SHPO's
19 "Photographic Standards for Historic Structures." Recorded materials will be archived at
20 SHPO and at an appropriate local archive to be agreed upon.

21 2. One of the summit tower structures must be repaired and partially
22 rehabilitated to provide a permanent record of the site's history. In addition, an
23 interpretive exhibit must be constructed that provides detailed documentation of the site's
24 history, significance and association with the Cold War. The details of the tower

²⁰ The Department also notes that the project should not cause unreasonable congestion or unsafe conditions on highways (10 V.S.A. § 6086(a)(5)); should not cause an unreasonable burden on a municipality's educational services (10 V.S.A. § 6086(a)(6)); and should not place an unreasonable burden on the ability of local governments to provide municipal or governmental services (10 V.S.A. § 6086(a)(7)). The DPS believes that the petitioner has adequately addressed these topics in its testimony. *See* Rubin pf. at 42-48.

1 rehabilitation and interpretive exhibit are to be refined at a later date and made available
2 for SHPO's review.

3 3. Efforts must be made to retain building footprints where feasible to serve
4 as a permanent record of the site's history and to facilitate future interpretation. Although
5 not exclusively a mitigation effort, the SHPO recognized that the proposed plan includes
6 provisions for public access to the site, which has not been permitted since government
7 ownership.²¹

8 Based on the expertise at SHPO, the Department concurs that the proposed
9 conditions will be sufficient to properly mitigate the adverse effects that the project will
10 have on the historic quality of the project site so they will not be undue. However, the
11 Department would like to take this opportunity to express its concerns over the proposed
12 interpretive center as described by the applicant. It is not clear to the Department that
13 constructing a facility designed as a tourist attraction, which if successful, could draw up
14 to 6,000 visitors a year to the summit of East Mountain, is necessary or appropriate under
15 the SHPO recommendations.

16 The Department understands the recommended conditions to include repair and
17 partial rehabilitation of one of the summit structures to provide a permanent record of the
18 site's history. As a separate and additional matter, the Department understands the SHPO
19 conditions to include construction of an interpretive exhibit to provide detailed
20 documentation of the site's history, significance and association with the Cold War. The
21 Department has consulted with SHPO and does not understand this condition to require
22 construction of the interpretive center at the summit as proposed by the applicant. Rather,
23 the DPS understands the condition to require construction of an informational exhibit, not
24 necessarily a visitors center, and not necessarily at the summit. The Department has
25 concerns regarding the applicant's proposal because one of the project's advantages from
26 an aesthetics point is that it is isolated and quite distant from generally accessible public
27 viewing points. Inviting thousands of people a year to actually visit the site could

²¹ See Rubin pf. at 49-52.

1 dampen the beneficial aspects of the site's isolation. Second, having so many visitors on-
2 site in the course of a year raises potential safety concerns. Accordingly, the Department
3 reserves the right to file additional comments and to refine its position on this aspect of
4 the petitioner's proposal once further details are presented, and recommends that East
5 Haven be required to involve the Department in these matters as they proceed to
6 conclusion. Further, any CPG issued in this proceeding should be explicit regarding the
7 petitioner's obligation to return to the Board to seek an amendment to the CPG which
8 will incorporate the final approved proposal.

9 With respect to public safety, the Department notes that the long abandoned base
10 is in disrepair and the proposed project will serve to clean the site of potential hazardous
11 materials and obsolete structures. However, proper safety precautions should be
12 components of any Certificate of Public Good issued in this proceeding. In reviewing the
13 proposed plans for the project, it becomes evident that the applicant controls little more
14 than the minimum amount of land necessary at the summit of East Mountain to
15 accommodate the project infrastructure, including the air space that will be occupied by
16 the rotation of the turbine blades.²² The Department believes that any CPG issued in this
17 proceeding should include as a condition a prohibition against any portion of the project
18 infrastructure, in particular the ends of the rotor blades, from encroaching on the
19 surrounding property, including its airspace.

20 The limited control area also raises potential safety concerns related to the rotor
21 blades shedding ice in the winter that will likely fall outside the boundaries of petitioner's
22 land.²³ Department witness David Lamont addresses this question in more detail, but in
23 summary, the Department believes that as a practical matter the likelihood of an
24 individual suffering injury due to this type of event is remote, in part because the natural

²² See e.g., Exh. EHWF-MR-5 (Turbine Site Plan).

²³ Theoretically, it is also possible a turbine could suffer a structural failure and collapse or topple onto the adjacent lands.

1 ground cover surrounding the project sight is very dense and not easily traveled through.²⁴
2 However, the Department recognizes this as a potential safety issue that should be
3 addressed in this proceeding, and that its resolution may ultimately require the petitioner
4 to reach some level of agreement with the owner of the surrounding lands and/or the
5 entities that hold the public access and working forest easements on those lands. Should
6 the Board determine that the land currently held by the petitioner is insufficient from a
7 public safety perspective, the Department would be comfortable if petitioner could reach
8 agreement with the land owner and/or easement holders to place clearly visible signs on
9 the lands surrounding the project site advising individuals of the potential dangers
10 associated with approaching the site and recommending that they refrain from doing so.
11

12 30 V.S.A. § 248(b)(6)

13 Q. Is the proposed project consistent with the principles for resource selection expressed
14 in the petitioner's approved least cost integrated plan?

15 A. In this instance, the petitioner is a merchant plant as opposed to a regulated utility
16 providing distribution service, such as LED or Green Mountain Power to name two
17 examples. As a result, it is my understanding that East Haven is not required to have an
18 approved least cost integrated resource plan. Accordingly, I do not believe that an
19 affirmative finding is necessary under this criteria.

20 30 V.S.A. § 248(b)(7)

21 Q. Is the project in compliance with the electric energy plan approved by the Department
22 under section 202 of Title 30, or if not, is there good cause to permit the proposed
23 project anyway?

24 A. The DPS believes the proposed project meets this criteria. I respectfully refer the
25 Board to the testimony of Department witness David Lamont for explanation of the DPS'

²⁴ According to the petitioner, there are no established trails approaching the summit of East Mountain with the exception of access via Radar Road, which remains under the control of East Haven. See Rubin pf. at 53.

1 position on this criteria. The Department issued its determination to this effect under 30
2 V.S.A. § 202(f) on December 13, 2004.

3 30 V.S.A. § 248(b)(10)

4 Q. Can the proposed project be served economically by existing or planned transmission
5 facilities without undue adverse effect on Vermont utilities or customers?

6 A. Similar to criteria number 3 on system reliability and stability, this question will
7 ultimately be addressed by the Department's electrical engineer, Steve Litkovitz. Again
8 here, the stipulation executed by the Department and the petitioner, if approved, will
9 allow for a deferral of any finding under this criteria until the anticipated follow-on
10 proceeding in which LED will seek a CPG to upgrade a portion of its transmission line
11 running from the bottom of Radar Road to its substation at Burke. I refer the Board back
12 to my earlier discussion on criteria 3 for more detail on the stipulation.

13 **3. Additional Concerns**

14 Q. Do you have any other concerns you would like to bring to the Board's attention?

15 A. Yes. There are three matters I believe the Board should address. First, I believe
16 that any CPG issued by the Board should contain a requirement that the applicant
17 establish and maintain an adequate decommissioning fund to insure that the site will be
18 returned to its natural state at the time the generation plant ceases to be used for
19 commercial production. I am not in a position to recommend specifics for such a fund,
20 though the Department believes that it should be fully funded prior to any significant
21 alteration of the environment; for example, blasting or excavating for the tower
22 foundations. I note that the applicant provided some general information regarding the
23 expenses of dismantling and transporting the turbines of the site,²⁵ however, I do not find
24 the level of detail particularly illuminating and don't believe the Board should rely on it.

²⁵ See Exh. EHWF-MR-15

1 Therefore, as part of this condition, I recommend the Board direct the petitioner to
2 provide a detailed study on the costs of removing the turbines, all related infrastructure,
3 and returning the summit area to a more natural condition.²⁶

4 Second, in the event there are any future proposals to either expand the current
5 project or to develop new projects in the vicinity of the East Mountain project, the Board
6 should preserve its ability to consider the cumulative effect of multiple wind generation
7 sites withing any single view shed. Although this is the first project in this area, it may
8 prove appropriate for future projects to be viewed with consideration of the total number
9 of turbines within a view shed, as well as the proximity of the nearest turbines to any
10 sensitive public viewing locations.

11 Third, as discussed above, the project will necessitate an upgrade to the LED
12 transmission line between East Haven and the Burke substation. Because that project is
13 not included in this application, but instrumental to the project, I would suggest that any
14 CPG given for this project be conditionally granted pending the successful completion of
15 the second CPG filing for the transmission line upgrade.

16 Q. Does the Department support issuing a Certificate of Public Good for this project under
17 30 V.S.A. § 248?

18 A. Yes. The Department believes that this project should receive a CPG with
19 conditions as described herein and reiterated below:

20 1. The CPG should be conditioned on East Haven complying with all
21 mitigation measures required by SHPO and should expressly require East Haven to
22 involve the Department in these matters as they proceed to conclusion. Further, any CPG
23 issued in this proceeding should be explicit regarding the petitioner's obligation to return
24 to the Board to seek an amendment to the CPG which will incorporate the final approved
25 proposal.

26 2. Should the Board determine that the land controlled by the petitioner is

²⁶ In the future, the Board may wish to consider decommissioning funds for the construction or relicensing of generation facilities regardless of their fuel source.

1 inadequate to provide for an appropriate level of safety around the project site, the
2 Department believes it would be sufficient if petitioner could reach agreement with the
3 land owner and/or easement holders to place clearly visible signs on the lands
4 surrounding the project site advising individuals of the potential dangers associated with
5 approaching the site and recommending that they refrain from doing so.

6 3. The CPG should contain a condition that prohibits any portion of the
7 project infrastructure, in particular the ends of the rotor blades, from encroaching on the
8 surrounding property, including its airspace.

9 4. The Board should require the applicant to establish and fully fund, prior to
10 any significant construction activities, an account to fund the decommissioning of the
11 windfarm and to return the project site to a more natural condition. As part of this
12 requirement, the applicant should prepare and submit a detailed study on the costs of such
13 decommissioning and restoration to be submitted to the Board for review and approval
14 and determination of the amount necessary to adequately fund this requirement.

15 5. Any CPG issued in this proceeding should be conditioned upon LED
16 applying for and receiving its CPG for the transmission upgrade necessary to
17 accommodate the windfarm. And, except as allowed by the Board based on the
18 stipulation between the Department and East Haven, no construction activities on the
19 windfarm should be permitted unless and until LED receives the CPG for the planned
20 transmission upgrade.

21 The subject of the current size of wind turbines and their aesthetic impact on the
22 Vermont landscape is undoubtedly controversial. The Department believes that the
23 unique location chosen for the proposed project, with its vast distances from generally
24 accessible public viewing locations, as well as the previously impacted nature of the site
25 with its pre-existing roadway and transmission corridor from the summit to the Village of
26 East Haven, is suitable for a project which will allow for the demonstration of the current
27 technology and allow citizens the opportunity to form a more informed opinion on future
28 wind generation projects. The structure of the power contract will guarantee a benefit to
29 LED's ratepayers. The project will also improve the conditions at the East Mountain site,

1 which was severely impacted, by the adverse conditions left by the departing Defense
2 Department.

3 Q. Does this conclude your direct prefled testimony?

4 A. It does.